



Nevada State Board of Medical Examiners

* * * MINUTES * * *

OPEN SESSION EMERGENCY TELEPHONE CONFERENCE CALL BOARD MEETING

Board Office Conference Room
1105 Terminal Way, Suite 301, Reno, NV 89502

WEDNESDAY, NOVEMBER 12, 2008 – 4:00 p.m.

Board Members Present at Board Office

None

Board Members Present by Telephone

Sohail U. Anjum, M.D.
Javaid Anwar, M.D.
S. Daniel McBride, M.D.
Van V. Heffner

Board Members Absent

Renee West, Secretary-Treasurer

Staff Present at Board Office

Louis Ling, Executive Director
Laurie L. Munson, Deputy Executive Director/
Information Systems Administrator/Chief of Administration
Edward O. Cousineau, J.D., Deputy General Counsel
Pamela J. Castagnola, Deputy Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
Jerry C. Calvanese, M.D., Medical Reviewer
Trent S. Hiatt, Investigator
Angelia L. Donohoe, Legal Assistant

Also Present by Telephone

Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

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CALL TO ORDER

The AT&T telephone conference call operator took roll call of those participating by telephone. All except Ms. West were present at the time the meeting began.

The meeting was called to order at 4:10 p.m.

IN THE MATTER OF KEVIN R. BUCKWALTER, M.D.

Ms. Guerri-Nyhus confirmed there was a quorum present.

Mr. Cousineau asked whether all participating Board Members had received and reviewed the materials sent to them prior to the meeting concerning this matter, and all indicated they had.

Mr. Cousineau stated the meeting had been convened pursuant to NRS 241.020(7), as it was felt that the ability of the subject of the meeting, Kevin Buckwalter, M.D., to prescribe controlled substances posed an immediate threat to the health and safety of the public.

Mr. Cousineau then asked whether any of the participating Board Members had any personal or professional relationships that might require a recusal.

Dr. McBride disclosed that Dr. Buckwalter occasionally sends patients through contracted care with HP of Nevada. He doesn't know Dr. Buckwalter personally, he has never spoken to him and wouldn't recognize him if he saw him, so he has a very casual collegial relationship as a surgeon, but nothing beyond that and it would not impair his ability to judge the matter fairly.

Dr. Anjum disclosed that Dr. Buckwalter refers some patients to him as well, but he doesn't know Dr. Buckwalter personally, and this professional relationship would not impair his ability to judge the matter fairly.

Dr. McBride asked Mr. Cousineau to confirm that the matter was based upon treatment of four patients. Mr. Cousineau confirmed same and added that there is an ongoing investigation.

Mr. Heffner asked for confirmation that one of the cases resulted in the death of the patient, and Mr. Cousineau confirmed that it did.

Mr. Cousineau read the proposed findings and Order of Summary Suspension, as follows:

This matter came on for hearing at an emergency meeting of the Nevada State Board of Medical Examiners (Board) convened pursuant to NRS 241.020 and conducted telephonically on the 12th day of November, 2008, to consider the request for summary suspension of Respondent's ability to prescribe, administer, or dispense controlled substances filed herein on November 12, 2008 by the Board's Investigative Committee. A quorum of the members of the

Board who constitute the adjudicative panel in this case, consisting of Renee West, Sohail U. Anjum, M.D., Javaid Anwar, M.D., S. Daniel McBride, M.D. and Mr. Van V. Heffner, Board Members, were present telephonically. Edward O. Cousineau, General Counsel for the Board, appeared as counsel for the Investigative Committee.

The adjudicative panel reviewed the Investigative Committee's Complaint, the request for summary suspension contained therein, and the attached exhibit. Upon review of the Complaint, request for summary suspension and attached exhibit, as well as the argument and presentation of counsel for the Investigative Committee, the adjudicative members of the Board find and conclude by a preponderance of evidence:

1. That Respondent is a physician licensed to practice medicine in the State of Nevada and possesses the ability to prescribe controlled substances without limitation,

2. That from approximately April 4, 2007 to April 2, 2008, Respondent wrote approximately forty-nine prescriptions for controlled substances for Patient A. The related medical records contain inadequate documentation of Patient A's response to prescribed medications, reasons for medication increases, functional changes or evaluations, or explanation or justification as to why Alprazolam therapy was initiated for Patient A or why the therapy was started at the maximum allowable dosage without any titration or trial of a lower prescriptive dosage,

3. That from approximately June 29, 2006 through April 4, 2008, Respondent wrote approximately sixty-one prescriptions for controlled substances for Patient B. The related medical records contain inadequate documentation of Patient B's response to the medications, the reasons for increases in the prescriptions, or justification for the initiation of Alprazolam therapy or why the therapy was started at the maximum allowable dosage without any titration or trial of a lower prescriptive dosage,

4. That from approximately January 18, 2007 to April 9, 2008, Respondent wrote approximately seventy-one prescriptions for controlled substances for Patient C. Respondent's medical record keeping relating to the prescribing of controlled substances for Patient C include very minimal record keeping relating to examinations and reasons for medication changes relating to narcotics, benzodiazepines and muscle relaxers, and there are no records relating to treatment outcomes, intensity or duration of pain, beyond Patient C's initial presentation, no documentation of changes in ability to function or continued unrelieved pain that justified increases in controlled substance prescriptions,

5. That from approximately May 13, 2004 to December 14, 2005, Respondent wrote approximately thirty-four prescriptions for controlled substances for Patient D. Respondent's controlled substances prescribing patterns and associated medical record keeping is severely lacking, and further, Respondent's excessive prescribing of Oxycontin and Kadian to Patient D at the end of Respondent's treatment course, contributed to the death of Patient D, due to Respondent's failure to recognize that Patient D had become narcotic naïve due to a protracted lapse in Patient D's narcotic usage,

6. That unforeseen circumstances have arisen and exist that pose a risk of impairment of the health and safety of the public and that require immediate Board action, especially because the Board's investigation is on-going based upon patient complaints that continue to be received, and which are based upon conduct similar to the conduct described in this Order. Therefore, allowing Respondent to continue to prescribe, administer, or dispense controlled substances presents an unacceptable risk to the citizens of Nevada.

Now therefore, pursuant to NRS 233B.127:

IT IS HEREBY ORDERED that the ability of Respondent, Kevin R. Buckwalter, M.D., to prescribe, administer, or dispense controlled substances in the state of Nevada is hereby suspended pending proceedings for disciplinary action pursuant to the Complaint filed herein and issuance of a final order, or until further order of this Board.

Dr. McBride moved that the Board adopt the order as read to the adjudicating members. Dr. Anwar seconded the motion.

Dr. Anwar stated that in his opinion, the most important thing in this case was not the amount of medication that was prescribed, but how the medication was prescribed and the lack of documentation and lack of appropriate evaluation.

A vote was taken on the motion, and it passed unanimously.

Mr. Cousineau concluded by putting on the record the staff members who were present at the meeting.

ADJOURNMENT

The meeting was adjourned at 4:23 p.m.

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